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Directorate-General for Energy
Directorate B – Internal Energy Market
B.2 – Internal Market II: Wholesale Markets: Electricity and Gas
Brussels

9 September 2014

Dear Ms Bernaerts,

Concerns regarding REMIT reporting regime

FIA Europe, the International Swaps and Derivatives Association ("**ISDA**") and the Global Financial Markets Association ("**GFMA**") write to you to share our ongoing concerns regarding the reporting regime under the Regulation of Wholesale Energy Market Integrity and Transparency (1227/2011)("**REMIT**"), by way of follow up to our attached letter of 2 June 2014 on the same subject.

The issues raised in our letter of 2 June 2014 were not addressed in the latest draft of the Implementing Act, published in July 2014. We would be grateful if DG Energy could take them into account, in addition to the comments set out below.

To facilitate DG Energy's regulatory objectives, we wish to highlight that the following key concerns remain to be addressed. We consider that some of them would be best addressed by way of amendment to the draft Implementing Act:

1. **Timing**

Reporting of transactions under REMIT is due to commence six months after the adoption of the Implementing Act (as mandated in Art. 22 of REMIT). Our current understanding is that the Implementing Act is due to be adopted in Q4 of 2014, resulting in a reporting start date in Q2 2015.

There remains a significant level of uncertainty in relation to the reporting regime, with the result that market participants are not yet in a position to fully understand their proposed obligations under REMIT and are not, therefore, in a position to make effective plans for complying with their obligations within the proposed timeframe.

ACER is currently conducting a consultation process on the Trade User Reporting Manual ("TRUM"). Even if a revised draft of the TRUM were published during Q3 2014, with all outstanding queries, addressed, we do not consider that would provide sufficient time to enable market participants to meet their reporting obligations on and from a reporting start date in Q2 2015.

Given previous experience on EMIR, we do not therefore expect 100% of the market to be 100% compliant and ready to meet its obligations on the go-live date for reporting.

We therefore respectfully ask DG Energy to consider finalising the text of the Implementing Act in Q4 2014 and to delay the formal adoption of the Implementing Act by six months, resulting in a reporting start date in Q4 2015. On the one hand this would provide market participants more time to become operationally ready to fulfil their REMIT reporting obligations and, on the other hand, it would provide ACER with sufficient time to ensure that market participants provide to regulators precisely the information that ACER desires.

2. **Link between REMIT and EMIR / MiFIR**

As a general comment, we consider that the REMIT reporting regime should, to the greatest extent possible, be consistent with EMIR and MiFIR. More specifically, we would welcome amendments to the draft Implementing Act to address the following issues.

(i) Dual reporting of transaction under REMIT and EMIR/MiFID

The latest draft of the TRUM (at paragraph 3.2.3) suggests that if a transaction is reported under EMIR or MiFID using EMIR/MiFID reporting fields, no additional data is required to be reported under REMIT. This is consistent with the policy objective under Article 6(5) of the draft Implementing Act to avoid duplicative reporting regimes.

However, the latest draft of the Implementing Act makes a minor change at Art 6(5) which could be interpreted in a manner which is inconsistent with the TRUM and with the stated policy objective. While guidance in the TRUM is helpful, the position should be made expressly clear in the Implementing Act, preferably by way of an amendment to Art 6(5).

The alternative is that additional data must be reporting under REMIT, which would present significant challenges. For example, where, 100 items related to a transaction are reportable, 30 of which are reported under EMIR by the clearing broker and 25 of which are reported under MiFIR, the executing broker would need to report the remaining 45 items under REMIT, i.e. REMIT essentially requires the Executing Broker to "fill in the blanks" that have not been reported under EMIR and/or MiFIR.

We note that there are practical challenges that would be faced by the executing broker in this scenario – in particular, given that it is the clearing broker, not the executing broker, that reports under EMIR, it will be impossible for the executing broker to know what has or has not been reported under EMIR with respect to a transaction. In practice, Article 6(5) may not therefore be capable of providing the relief from dual reporting that is sought by regulators.

(ii) Dual reporting relief should apply at transaction level, not data field level

We request that Article 6(5) of the draft Implementing Act be amended to clarify that the relief from double reporting obligations will apply at a transaction level rather than at a data field level, consistent with the primary REMIT legislation and the underlying policy objectives, as set out in the Recitals to the draft Implementing Act.

In particular, Article 8(3) of REMIT provides that persons who have reported a **transaction** in accordance with relevant existing EU legislation shall not be subject to double reporting requirements in respect of those **transactions**. Similarly, Recital 6 of the draft Implementing Act seems to envisage that relief from double reporting obligations would apply at a transaction level. However, as currently drafted, Article 6(5) of the draft Implementing Act could be construed as

applying the double reporting relief only to those *details* of the transaction which have already been reported under existing EU legislation. We suggest amending Article 6(5) of the draft Implementing Act to bring it in line with the primary legislation by clarifying that once a transaction is reported under existing EU legislation, the entire obligation to report details of that transaction, including associated orders to trade, under REMIT is then completed. This would ensure relief from double reporting that would then apply at the transaction level rather than the individual detailed data field level.

It is important that any double reporting relief extends to associated orders to trade, otherwise the dual reporting relief is negated by the fact that parties will need to incur the cost of significant infrastructure development and ongoing business support in order to report orders to trade in relation to trades already reported under EMIR/MiFIR.

(iii) Order reporting

It is also worth reiterating the significant practical difficulties of reporting orders to trade in the OTC context, particularly with respect to unexecuted voice orders and we would welcome an amendment to the draft Implementing Act to make clear that such orders are not in scope.

3. **Who reports**?

(i) Transaction and order reporting

Clarification is requested as to who has the reporting obligation at each stage of the transaction. We would suggest that, as an overarching principle, a market participant should be obliged to report data to which it can reasonably be expected to have access at the appropriate time. If multiple market participants have access to the same data, only one of them should be obliged to report on each side of the transaction.

Transactions, especially in the exchange traded derivatives market, may involve multiple market participants on both sides of the trade. For example, each beneficiary to a transaction may be advised by an investment adviser, who instructs an executing broker to execute a transaction which is then given up to a clearing broker and executed with a clearing counterparty. We note that the executing broker and the clearing broker are sometimes the same entity but may also be different entities.

Specific points to note in relation to the structure of the exchange traded derivatives market include:

- the executing broker may not be informed by the person placing the order of the identity of the ultimate beneficiaries (for example, where an investment advisor places the order):
- from a timing perspective, the identity of the beneficiary may only be confirmed to the *clearing broker* (not the executing broker) by the end of the trading day;
- clarification is required as to whom should be considered the end beneficiary for this purpose. In most instances, only the immediate client of the executing broker will be known to the executing broker – neither they nor trading venues will typically have access to the identity of the ultimate beneficiary. Accordingly, the market participants would expect to report the identity of the immediate client of the executing broker as the beneficiary of the transaction;

- where the executing broker provides direct market access (DMA) to its client, the executing broker may not have access to all the order data related to that client. It would therefore be a challenge for the executing broker to report the same and to link executed trades to orders, if the executing broker is considered a "market participant" and required to report in such circumstances; and

- clearing brokers will not have access to information such as the execution time stamp, so should not be required to report this information.

In order to achieve an effective and useful reporting regime, the current approach of placing responsibility on the market participant requires tailoring for the exchange traded derivative market. As we noted in our 2 June 2014 letter, separate guidance on reporting of ETD (at both a transaction level and a position level) was given in the context of EMIR - it would be useful to replicate that guidance in relation to REMIT. Certainty in the interpretation of regulatory obligations is of great importance to market participants and it is suggested that the Implementing Act should clearly allocate responsibility for reporting between executing and clearing brokers as appropriate.

We would be pleased to provide more detailed comments and suggestions in relation to the allocation of responsibility for reporting of orders and transactions at the appropriate time.

(ii) Organised market place

It is proposed that the organised market place reports the details of contracts executed on that venue by market participants. We would welcome clarification as to who has the reporting obligation for the chain of back to back contracts (e.g. exchange->exchange member; exchange member->direct client; direct client -> indirect client, etc..) that led to the trading of such contract on the exchange by the exchange member.

Clarification is also requested as to precisely what the definition of organised market place is intended to include. The definition of organised market place in the draft Implementing Act is very similar to the definitions of Multilateral Trading Facility and Organised Trading Facility in MiFID 2. Under MiFID 2, these definitions combine to form the definition of a Trading Venue.

Is the definition of organised market place under REMIT intended to align with the definition of Trading Venue under MiFID? We would suggest that this would be a sensible approach and that the definition of organised market place be amended accordingly. Alternatively, if the definition of organised market place is intended to be broader than trading venue, we would welcome further explanation.

4. Lifecycle event reporting

The lifecycle event language in REMIT[1] has been carried across from EMIR and market participants are likely to interpret their obligations in an identical manner.

Although we believe that REMIT and EMIR text should be interpreted in the same manner, we understand that the purpose of EMIR reporting (risk management and trade capture) is different

[1] Article 7(1): "Any modification or the termination of the concluded contract shall be reported as soon as possible but no later than the working day following the modification or termination".

from the purpose of REMIT reporting (detection of market abuse). ACER may, therefore, have different aims in relation to lifecycle event reporting. If that is the case, the draft Implementing Act should be amended to align properly with ACER's aims.

A point to note in respect of the exchange traded derivative market is that the executing broker does not have access to lifecycle event data, as its relationship with the trade ceases immediately upon execution. It is therefore unable to provide lifecycle event reporting. This should be taken into account when allocating responsibility for reporting between executing and clearing brokers in the Implementing Act.

5. **Back reporting**

Further guidance is requested regarding the process of back-reporting as required under Art 7(4) of the draft Implementing Act. On the basis of our experience with back reporting under EMIR, we make the following suggestions:

- Given the volume of exchange traded derivative transactions, position reporting should be encouraged for these transactions, rather than individual trade by trade reporting.

- In line with the approach taken in the ESMA Q&A for EMIR reporting, we suggest that positions for both OTC and exchange traded derivative transactions should be reported with respect to the day prior to the reporting start date.

- Executing brokers will not have access to data that would enable them to back-report transactions, as they cease to be involved in the trade upon execution. They will also not have access to position data for their clients. The obligation should therefore fall on the clearing broker alone.

- For OTC transactions, back reporting may prove challenging with respect to information that may not necessarily have been retained at the time of the transaction, for example order details for OTC transactions and trade-specific information relating to initiator/aggressor.

6. **Delegated Reporting by Organised Market Places (OMP), trading matching systems (TMS) and trade reporting systems (TRS)**

(i) <u>OMPs</u>

In contrast to the authorisation regime that applies to trade repositories under EMIR, we note that OMPs are not subject to any approval regime before they become subject to the obligation to offer data reporting under Article 6(1) of the Implementing Act.

We are therefore concerned about the position if an OMP is not ready to perform such reporting on and from the reporting start date, particularly where market participants have requested that such OMP reports details of order and transactions on its behalf. Such market participants risk being in breach of their own reporting obligations for reasons outside of its control, as a result of the OMP being unable to fulfil its regulatory obligations on and from the due date.

We request that the draft Implementing Act be updated to clarify that ACER will not take (nor be permitted to take) enforcement action against market participants who have taken up the offer of delegated reporting from an OMP, where the OMP fails to report orders or transactions correctly.

(ii) TMS and TRS

We should be grateful if the draft Implementing Act would set out the definitions of both "trade matching system" and "trade reporting system". These are omitted from the current draft, but are important terms given that they are alternative reporting venues to an OMP.

We note that the draft Implementing Act is drafted so that the three reporting mechanisms above (OMP, TMS and TRS) are each alternative mechanisms, suggesting that if one option is not available (e.g. an OMP), then a Market Participant is obliged to report through one of the other reporting mechanisms. We ask that the draft Implementing Act clarify whether or not Market Participants are required to attempt to report through each of the reporting mechanisms.

7. **Delegated Reporting by LNG System Operators or SSOs**

Article 9(5) of the draft Implementing Act requires market participants or LNG System Operators on their behalf to report certain information relating to the unloading and reloading of cargoes at LNG facilities. In addition, Article 9(9) of the draft Implementing Act requires market participants or Storage System Operators on their behalf to report certain information relating to the amount of gas the market participant has stored at the end of the gas day.

We welcome the proposal to allow market participants to enter into delegated reporting arrangements with LNG System Operators and Storage System Operators in respect of these reporting obligations. However, we note that the LNG System Operators and Storage System Operators are not obliged to offer such delegated reporting arrangements and some may elect not to do so.

Where this occurs, reporting to regulators under Article 9(5) and Article 9(9) is likely to become fragmented at both a market participant and facility level. In particular, if some LNG System Operators or Storage System Operators elect not to offer delegated reporting arrangements, market participants may then elect to use a combination of self-reporting and delegated reporting arrangements to satisfy their reporting obligations across the LNG and gas storage facilities which they use, leading to a fragmentation of reporting at a market participant level. Alternatively, if a market participant is required to develop infrastructure and provide ongoing business support to satisfy its reporting obligations in respect of one or more LNG or gas storage facilities, it may be preferable for that market participant to self-report in respect of all LNG and gas storage facilities that it uses, leading to fragmentation of reporting at a facility level. Further reporting fragmentation is likely to occur if different market participants take different approaches in these circumstances.

We understand that the required data is available to LNG System Operators and Storage System Operators as part of the ordinary course of business. We therefore recommend that the draft Implementing Act be amended to require the reporting obligations under Article 9(5) and Article 9(9) to be satisfied directly by the respective LNG System Operators and Storage System Operators. This approach would allow regulators to receive the data in a holistic manner from the relevant facility operators and avoid the reporting fragmentation risk described above. This approach would also be consistent with Article 8(5) of REMIT which states, "...*The reporting obligation on market participants shall be minimised by collecting the required information or parts thereof from existing*

sources where possible" and Recital (8) of the draft Implementing Act which states, "*In order to reduce the burden of reporting on market participants and to make the best use of existing data sources, reporting should involve where possible ... LNG system operators and natural gas storage system operators*.".

We and our members would welcome the opportunity for further discussion with officials from the European Commission, ACER and ESMA and will be in touch to arrange a meeting as soon as practicable. We continue to believe that a number of the solutions chosen with respect to EMIR reporting would be appropriate for REMIT.

Sincerely

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(CEO, FIA Europe)

George Handjinicolaou
(Deputy CEO and
Head of Europe, Middle East and Africa, ISDA)

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Brussels

2 June 2014

Dear Ms Bernaerts,

Concerns regarding REMIT reporting regime

The Global Financial Markets Association (GFMA)[1], The Futures Industry Association Europe (FIA Europe)[2] and the International Swaps and Derivatives Association (ISDA)[3] are writing to you to share our concerns regarding the reporting regime under the Regulation on Wholesale Energy Market Integrity and Transparency (1227/2011) (**REMIT**).

We strongly support the objectives of the Agency for the Cooperation of Energy Regulators (**ACER**) in preparing guidance on the reporting regime under REMIT to enable clear and transparent reporting. Furthermore, we consider that it is important that ACER has access to high quality information from market participants that is reported on a consistent basis and capable of being amalgamated with the information that ACER will receive from trade repositories and other sources, which has been reported in accordance with other EU legislation.

[1] The Global Financial Markets Association (GFMA) brings together three of the world's leading financial trade associations to address the increasingly important global regulatory agenda and to promote coordinated advocacy efforts. The Association for Financial Markets in Europe (AFME) in London and Brussels, the Asia Securities Industry & Financial Markets Association (ASIFMA) in Hong Kong and the Securities Industry and Financial Markets Association (SIFMA) in New York and Washington are, respectively, the European, Asian and North American members of GFMA. For more information, please visit http://www.gfma.org

[2] The Futures Industry Association is the leading trade organization for the futures, options and OTC cleared derivatives markets. It is the only association representative of all organizations that have an interest in the listed derivatives markets. Its membership includes the world's largest derivatives clearing firms as well as leading derivatives exchanges from more than 20 countries. For more information, please visit http://www.foa.co.uk/

[3] ISDA's mission is to foster safe and efficient derivatives markets to facilitate effective risk management for all users of derivative products. ISDA has more than 800 members from 58 countries on six continents. These members include a broad range of OTC derivatives market participants: global, international and regional banks, asset managers, energy and commodities firms, government and supranational entities, insurers and diversified financial institutions, corporations, law firms, exchanges, clearinghouses and other service providers. For more information, visit www.isda.org

We have been following the developments in the REMIT reporting regime closely and have previously provided comments on the proposed regime[4], including comments on data security and the use of the Legal Entity Identifier. Furthermore, we have attended the REMIT Roundtable meetings, including the most recent one held during May.

However, we are still concerned that the proposed Commission Implementing Act and ACER's current draft guidance do not give market participants sufficient certainty regarding their reporting obligations under REMIT. This may present challenges for market participants in complying with those obligations and also for regulators in achieving their regulatory objectives.

We note that many of these concerns were also raised in the context of the reporting obligation under EMIR (Regulation 648/2012), and were subsequently addressed through a detailed Q&A document published by the European Securities Markets Authority (**ESMA**). In light of the overlap between the EMIR reporting regime (and the proposed reporting regime under MiFID II / MiFIR), we thought it appropriate to also copy this letter to DG Internal Market and Services so that it is aware of the similar concerns in relation to REMIT.

Additionally, we are concerned that we may not have received the most recent version of the Implementing Act. We have reviewed and commented on the version circulated in October 2013, however we are aware that different versions have also more recently been circulated to certain market participants.

An overview of our key concerns regarding the Implementing Act is set out below, but we would welcome an opportunity to meet with European Commission officials in order to explain and discuss these in more detail. Additionally, we would welcome a public consultation on the most recent applicable version of the Implementing Act, so as to enable all of our members to provide comments before the adoption of the Implementing Act.

We will continue to engage with ACER in relation to the development of the trade reporting regime (including the Trade Reporting User Manual, ACER guidance and any Q&A document published in relation to REMIT), however we believe that a number of more fundamental issues would best be addressed at the level of the Implementing Act.

In particular, please note the following key concerns:

- **Identification of market participants**: ACER indicated at the recent Roundtable meeting that an executing broker under an exchange traded derivative (**ETD**) transaction would be a "market participant" under REMIT. Under EMIR, the corresponding reporting role is fulfilled by the clearing broker instead. The proposed approach under REMIT will result in the duplicative reporting of transactions where the market participant under REMIT differs from the reporting counterparty under EMIR.

[4] For example, see joint GFMA / FIA response to ACER's consultation on its draft Trade Reporting User Manual dated 2 May 2014, a copy of which we include for reference.

- **Reporting of transactions**: It will be necessary to tailor the REMIT reporting regime to enable effective reporting of ETD and other types of wholesale energy products. Each party involved in the execution and clearing of an ETD contract will have access to different degrees of information; in order to ensure that ACER receives all relevant information, it will be necessary to identify which party will be responsible for reporting each field. Additionally, if the clearing broker is not identified as a market participant, we would welcome confirmation that lifecycle events for ETD are not reportable by clearing brokers after transactions are aggregated into positions. Separate guidance on reporting of ETD (at both a transaction level and a position level) was given in the context of EMIR, and it would be useful to replicate that guidance in relation to REMIT.

- **Back-loading of reports**: Back-loading of reports in relation to transactions entered into prior to the reporting start date presents a number of difficulties which were discussed in relation to reporting under EMIR. We would welcome guidance on back-loading of reports under REMIT along the lines of the guidance given under EMIR.

- **Consistency with guidance on reporting under EMIR and MiFIR**: In addition to the above, we would welcome broader consistency between the reporting regime under REMIT and that under EMIR (and the regime proposed under MiFIR). In particular, we would welcome further clarification on the extent to which reporting of a transaction under EMIR will satisfy the reporting obligation under REMIT (including any requirement to report orders to trade under REMIT). We would also welcome guidance on whether circumstances where an executing broker would not be required to report under EMIR (e.g. agency transactions and trades given up for clearing within T+1) apply to REMIT reporting obligations.

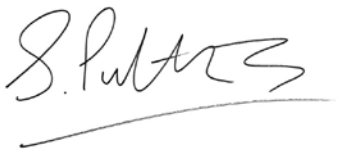
- **Timeframe for implementation**: In light of experience elsewhere (especially in connection with EMIR), we believe that the proposed timeframe for implementation will be difficult to achieve, particularly where: (i) some determinations affecting the scope of the transaction reporting obligation have been delegated to ACER, without the Implementing Act specifying a deadline for resolving these or making the implementation date of the reporting obligation dependent on those determinations having been made; (ii) market participants do not yet have certainty over their reporting obligations; (iii) essential market infrastructure is yet to be developed; and (iv) best practices in relation to reporting have not yet been agreed.

In relation to the key concerns outlined above, there are various solutions, many of which have been considered in the context of the reporting obligations under EMIR. Each solution has its own benefits and drawbacks, and we would welcome an opportunity to further discuss the available options. In any event, we would recommend that these issues are specifically addressed in the Implementing Act and ACER's guidance.

We will continue to actively engage with ACER and provide any assistance possible to help address the practical challenges of implementing the REMIT reporting regime.

As noted above, we would welcome the opportunity for further discussion with officials of the European Commission and will be in touch to arrange a meeting as soon as practicable.

Sincerely

David Strongin	Simon Puleston Jones	Benoit Gourisse
		
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ATTACHMENT

2 May 2014

ACER
Agency for the Cooperation
of the Energy Regulators
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Submitted by email to: Remit.PublicConsultations@acer.europa.eu

Dear Sir/Madam,

Subject: FIA Europe/GFMA Member Response to ACER Public consultation on the Draft TRUM for REMIT

The Futures Industry Association Europe (FIA Europe)[1] and the Global Financial Markets Association (GFMA)[2] are pleased to provide comments on the ACER's Trade Reporting User Manual (TRUM) for trade reporting under REMIT.

Before addressing the specific questions in the consultation, we take the opportunity to raise some high level points that we feel are important in the wider context of the reporting regime under REMIT.

General Comments

- **Single sided reporting.** We welcome the fact that one or both of the participants to a trade can appoint a third party *or* the other counterparty to report the trade on its/their behalf, as provided under the REMIT text[3] and as recognised by the draft Implementing Acts presented by the Commission.[4]
  We strongly support such single sided reporting under REMIT given that the objective of the REMIT regulation is to monitor and enforce prohibitions against market abuse. The same objective is true of MiFID transaction reporting and for this reason REMIT should mirror a single sided reporting approach.

1 The Futures Industry Association is the leading trade organization for the futures, options and OTC cleared derivatives markets. It is the only association representative of all organizations that have an interest in the listed derivatives markets. Its membership includes the world's largest derivatives clearing firms as well as leading derivatives exchanges from more than 20 countries. For more information, please visit http://www.foa.co.uk/.

2 The Global Financial Markets Association (GFMA) brings together three of the world's leading financial trade associations to address the increasingly important global regulatory agenda and to promote coordinated advocacy efforts. The Association for Financial Markets in Europe (AFME) in London and Brussels, the Asia Securities Industry & Financial Markets Association (ASIFMA) in Hong Kong and the Securities Industry and Financial Markets Association (SIFMA) in New York and Washington are, respectively, the European, Asian and North American members of GFMA. For more information, please visit http://www.gfma.org.

3 Art. 8(1) and (4) Regulation on wholesale energy market integrity and transparency (REMIT) (No 1227/2011)

4 Art. 4(2) and (3) REMIT Draft Implementing Acts presented by the Commission on 30 October 2013

- **Back loading of trade data.** We would welcome clarity from ACER regarding back loading requirements, if any, as these would have a significant operational demand on IT systems. REMIT does not establish any obligation to report historical data, neither for trades nor for orders. In any event, we believe that any back loading obligation should be consistent with the requirements established under other EU reporting regimes.

- **Consolidated tape for REMIT.** We support the creation of a consolidated tape for REMIT trade data. Such a facility would allow both ACER to monitor the activity of the energy market, and market participants to reconcile the data reported in order to comply with their obligation to accurately report. We would appreciate receiving clarity from ACER on this point.

- **Data security.** We would like to stress the importance of having in place appropriate measures to protect the transferring of data to and via the different Registered Reporting Mechanism (RRMs). FIA Europe and GFMA members recognise this issue as a data security risk and an issue of key importance to their firms and their clients. We note that Article 12 of REMIT attempts to address the issue of confidentiality, integrity and protection of the information. However we remain extremely keen to review ACER's detailed technical requirements for RRMs.

Response to Consultation Questions

Q1 The Agency currently understands that the attached data fields (see Annex I of the draft TRUM) for the reporting of transactions in standardised and non-standardised contracts will be included in the Commission's implementing acts. Please provide us with your views on the attached data fields.

As a general comment, we believe that the adoption of clearly enumerated codes in each field would reduce the instances of incorrect information thus ensuring a better quality of the data reported. The number of fields with options for free format text should be limited as much as possible.

Moreover, we think that where multiple options are available for populating a certain field (e.g. Field no 1 - ID of the market participant) a strict waterfall/hierarchy should be put in place.

With regards to some specific fields:

- **Field 1 & 2 (ID of the market participant or the counterparty and type of code).** As an industry we have a strong preference for the use of an LEI code as a standardised market counterparty identifier. We recommend encouraging the use of an LEI code as this is widely accepted as single supranational identifier standard across many types of reporting mechanism (e.g. EMIR trade reporting and EBA supervisory reporting). The ACER registration code should be used as an alternative only when an LEI is not available.
  Also we would appreciate clarification on whether Field 1 could contain a clearing house or CCP ID as per the explanation in the TRUM.

- **Field 53 (Duration)**. We believe that duration periods identified in the current draft are too limited. We would suggest adding a broader range of alternatives which includes, for example, Weekend, BOM, BOW, 2-3 days, etc.

- **Field 55 (Days of the week)**. We think that the periods currently proposed are too rigid. We would suggest adding another alternative which can be used for trades that include, for example, a weekend but also an extra weekday (i.e. Fri to Tues delivery).

- **Field 56 (Load delivery intervals).** We interpret this field as requiring the load delivery intervals, for calendar trades (i.e. daily delivery for hour 10.00-11.00). This would result in a large number of rows of data (>100) if ACER requires the reporting of every date and delivery period to be individually listed. We would appreciate more details on the information to be reported in this field.

- **Field 62 (Lifecycle events).** We believe that the taxonomy in this field should be aligned with the EMIR life cycle event taxonomy. It would be useful to further discuss the information that has to be reported for this field, particularly in case of transactions reported by a third party on behalf of the market participants.

Q2 Please provide us with your general comments on the purpose and structure of the draft TRUM, annexed to the consultation paper.

We welcome the TRUM and the level of detail provided to assist firms in preparing for the reporting requirement go-live under REMIT.

We appreciate that the document is "live" and will be updated by ACER as required. We think that it would be particularly useful for market participants to have a Q&A section where ACER could update the industry with any changes or developments and respond to industry questions.

Q3 The Agency has currently identified a set of standard formats to be used in the reporting framework (see Chapter 5 of the draft TRUM). Do you consider these standard formats relevant? Are there any other standards that the Agency should consider?

We do not have any specific comments. Please also note our responses to Question 1 and 4.

Q4 Please provide us with your views on the field guidelines for the reporting of transactions in standardised supply contracts (see Chapter 6 of the draft TRUM).

We note that some particular fields may overlap and result duplicative information and we would appreciate ACER providing more details on these points. Specifically we refer to the following fields that, in the majority of cases, include the same information:

- Field 28 (Transaction ID) and Field 31 (Transaction Reference Number)

- Field 40 (Quantity) and Field 41 (Total Notional Contract Quantity)

We also look for some guidance on the below fields:

- Field 29 (Linked Transaction ID): could ACER provide more clarity regarding what a linked transaction is, possibly including some examples;
- Field 36 (Index Value): could ACER clarify what Index Value they expect to see populated and whether this is a value that should be populated at the time;
- Field 59 (Price/Time Interval Quantity): could ACER provide some guidance as to what transactions they would see populated in this field and provide a more detailed example as to how it would be populated.

Q5 Do you agree that for the reporting of energy derivatives, the same standards that apply under EMIR and MiFID should apply under REMIT (see Chapter 7 of the draft TRUM)?

We agree that maximum harmonisation between the standards applicable under REMIT and those applicable under MiFID/EMIR helps to avoid duplication and minimises the reporting burden on firms. It also facilitates the approach taken by the draft Implementing Acts[5], which provides that a report made under MiFID/EMIR discharges the reporting obligation under REMIT. As stated above (*please see General Comments, Point 1*), we support a single sided reporting mechanism, similar to that adopted in MiFID, and not the EMIR double sided reporting regime.

Q6 The Agency intends to include in the TRUM guidance on how trade reports shall be reported for different trading scenarios (see Chapter 8 of the draft TRUM). Please provide us with your views on which trading scenarios you would consider useful to cover in the TRUM.

We believe it would be useful for ACER to explain how trade reporting will work for the following scenarios:

- **Approximate load deals.** These are deals where the quantity is not originally known so an approximate quantity is entered into the trade. The trade will be updated when the quantity is eventually known. Sometimes this quantity is nominated before delivery, however usually it is not known until after delivery. This type of deal could lead to multiple amendments over their life and may result in daily updates in reporting. We would be interested in knowing how ACER expects this type of deals to be reported when the exact delivery amount is unknown at the time of execution.
- **Options with formula pricing.** For tolling option trades the price at which the option can be exercised can consist of an FX rate, coal price, emissions price and an oil price. We would need to know under which contract type tolling arrangements have to be reported.

5 Art. 5(5) REMIT Draft Implementing Acts presented by the Commission on 30 October 2013

Q7 Please provide us with your views on the section in the draft TRUM related to data integrity (see Chapter 9 of the draft TRUM).

We believe that when orders or trades are reported by an organised market on behalf of market participants, the accuracy and completeness of this reporting should show the level of integrity acceptable to ACER given that an organised market is independent of the parties to the transaction.

When information is reported directly by the market participants through an RRM, we would agree that the market participant should be responsible for the accuracy and integrity of the information sent to the RRM. However, as an RRM must meet the security criteria required by ACER and will be interfacing directly with ACER, we believe that the RRM should bear the responsibility for ensuring that the market participant's information is provided correctly to ACER.

If market participants are to undertake periodic validation on information held by ACER, they would require reports to be available from ACER either on request or on a periodic basis. As previously stated (*please see General Comments, Point 3*), we request that ACER gives a reporting solution its full consideration.

FIA Europe and GFMA very much appreciate the opportunity to provide comments on the Consultation and trust that you find them helpful. We would, of course, be happy to discuss our response with you at your convenience.

Sincerely

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